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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,590	06/29/2001	Janne Aaktonen	367.40294X00	5624

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

EXAMINER

GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,590

Applicant(s)

AALTONEN ET AL.

Examiner

Tilahun B Gesesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to applicant's argument filed April 18, 2005, in which claims 1 through 41 are pending.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1- 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kostreski et al (US patent no. 5651010) in view of Bodin et al (US patent No. 5241685).

Regarding claim 1, Kostreski discloses a broadcast system for delivering content to a terminal (abstract), including a plurality of transmitters (TX1-TX3), and a network controller (5) responsive to distribution of demand of specific content to (column 7, line 1-45 and figure 4).

Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention

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was made to define the topology of region by dynamically varying cell size, as evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claim 2, Kostreski discloses signaling means providing information relating to the network topology for delivery to a terminal (column 7, lines 1-45 and figure 4).

As to claims 3-4,21-22, Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to define the topology of region by dynamically varying cell size, as evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claim 5,24-26, Kostreski discloses transmitter-delivering content to an area overlying at least the network topology determined by the controller (figures 4 and 5).

As to claim 6,23, Kostreski discloses the network controller (5) is operable modify topology to deliver, in at least one cell , the content being delivered by the further transmitter (either using relay network or using overlap cells column 7, line 1- 45 and figures 4 and 5).

As to claim 7, 27-31 , Kostreski discloses at least two transmitters comprise the plurality of transmitters (figure 4).

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As to claim 8,32-36, Kostreski discloses the transmitters characteristics are varying in respect of one transmission power (column 7, lines 1-45 and figure 5).

As to claim 9, kostreski discloses a method of delivering content to terminals over a network whose topology is defined by the transmission characteristics of a plurality of transmitters (column 7, lines1- 45 and figures4) , comprising analyzing the content to be delivered (column 7, lines1-45).

Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to define the topology of region by dynamically varying cell size, as evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claims 10,38-40, Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to define the topology of region by dynamically varying cell size, as

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evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claim 11 , Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to define the topology of region by dynamically varying cell size, as evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claims 12-13, 19-20 and 41, Kostreski discloses a computer program comprising executable code for execution when loaded on a computer, the computer is operable in accordance with the code to carry out the method according and computer readable medium (column 4, lines 1-15).

As to claims 14-18, Kostreski discloses a broadcast system (figure 4) having a plurality of transmitters (Tx1-TX3) for delivering content to terminals in respective locations each transmitter operating in accordance with a set of operational characteristics (column 7, lines 1-45) comprising: means for determining a distribution (5) of terminals for delivery of common content (see figure 4).

Kostreski does not teach the network defines the topology of region by varying the transmission characteristics.

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However, Bodin et al teaches the network defines the topology of region by varying the transmission characteristics (column 5, lines 41-46 and figure 2 reducing the size of cell by dynamically varying the entering threshold of cells). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time of the invention was made to define the topology of region by dynamically varying cell size, as evidenced by Bodin, for the terminal to receive quality content of the transmission and avoid interference that causes by neighboring cell transmitters.

As to claims 37, Kostreski discloses the transmitter characteristics are varied such that the cellular density of the topology is increased in an area where substantially different content is being delivered to terminals (peak data usage, typical by business customers, occur in the daytime, and peak interactive video usage by residential customers occurs at night, column 7 lines 1-56 and figure 4).

Response to Arguments

Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 571-272-7879. The examiner can normally be reached on flex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9/31/05
TILAHUN GESESSE
PRIMARY EXAMINER